

## National Casualty Company

Home Office: Scottsdale, Arizona  
Surety Administrative Office:  
7 World Trade Center, 37<sup>th</sup> Floor  
250 Greenwich Street  
New York, NY 10007-0033  
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482-14/MF/PJG  
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*Attorneys for Plaintiff*  
Hapag-Lloyd Aktiengesellschaft  
80 Pine Street  
New York, NY 10005  
(212) 425-1900 / (212) 425-1901 (Fax)  
Peter J. Gutowski  
Michael Fernandez

Bond No. SNO0000012

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HAPAG-LLOYD AKTIENGESELLSCHAFT,

Plaintiff,

-against-

U.S. OIL TRADING LLC, O.W BUNKER  
GERMANY GMBH, O.W BUNKER & TRADING  
A/S, ING BANK N.V., CRÉDIT AGRICOLE S.A.

Defendants.

14 Civ. 1:14-cv-09949-UA

**UNDERWRITER'S**  
**INTERPLEADER AND**  
**DECLARATORY JUDGMENT**  
**SURETY BOND**

**KNOW ALL MEN BY THESE PRESENTS** that National Casualty Company ("NCC" or "Surety"), a Wisconsin corporation duly authorized to issue federal surety bonds in the State of New York, with a surety office located at 7 World Trade Center, 37<sup>th</sup> Floor, 250 Greenwich Street, New York, NY 10007-0033, hereby consents to be bound as follows:

### **Consent to Jurisdiction**

1. Surety submits itself to the jurisdiction of the United States District Court for the Southern District of New York in the above referenced Interpleader and Declaratory Judgment action filed by Plaintiff Hapag-Lloyd Aktiengesellschaft (“HLAG”) against Defendants U.S. Oil Trading LLC, OW Bunker Germany GmbH, OW Bunker & Trading A/S, ING Bank N.V., and Crédit Agricole S.A., for the purpose of the submission of this surety bond to stand as security for the full and complete performance of the payment obligations of Plaintiff HLAG under the terms and conditions as set forth herein;

**Pledge Regarding the Bunkers Supplied to the M/V SEASPAN HAMBURG**

2. With respect to the competing claims involving entitlement to payment for the bunkers supplied to the **M/V SEASPAN HAMBURG** on which OW Germany has issued an invoice to HLAG in the total amount of \$1,516,809.83 in relation to the supply of bunkers on or about October 16, 2014, Surety pledges that in the event a final judgment (after all appeals, if any) shall be entered in favor of one of the defendants herein and against all others adjudging the said defendant to be the entity entitled to receive the payment and releasing HLAG from any further liability in respect to the supply of the bunkers, and should HLAG fail to remit said sum within thirty (30) days of entry of said final judgment as outlined above, then Surety shall pay to the Clerk of Court all or any portion of the aforesaid judgment that remains unsatisfied, up to and including but under no circumstances exceeding the total sum of \$1,607,818.41 (One Million Six Hundred and Seven Thousand Eight Hundred and Eighteen US Dollars and Forty One Cents), said sum representing the amount reflected in the OW Germany invoice referred to above, plus an uplift for interest and/or costs, as may be awarded, of 6%.

3. It is an express condition of this undertaking involving the **M/V SEASPAN HAMBURG** competing claims that the Court shall issue an order directing all defendants to refrain from arresting, restraining or otherwise attaching the aforesaid vessel or any other

property of its owner, HLAG or any entity in the same management, in respect of the supply of bunkers.

**Pledge Regarding the Bunkers Supplied to the M/V SOFIA EXPRESS**

4. With respect to the competing claims involving entitlement to payment for the bunkers supplied to the **M/V SOFIA EXPRESS**, on which OW Germany has issued an invoice to HLAG in the total amount of \$1,318,668.24 in relation to the supply of bunkers on or about October 16, 2014, Surety pledges that in the event a final judgment (after all appeals, if any) shall be entered in favor of one of the defendants herein and against all others adjudging the said defendant to be the entity entitled to receive the payment and releasing HLAG from any further liability in respect to the supply of the bunkers, and should HLAG fail to remit said sum within thirty (30) days of entry of said final judgment as outlined above, then Surety shall pay the Clerk of Court all or any portion of the aforesaid judgment that remains unsatisfied, up to and including but under no circumstances exceeding the total sum of \$1,397,788.33 (One Million Three Hundred and Ninety Seven Thousand Seven Hundred and Eighty Eight US Dollars and Thirty Three Cents), said sum representing the amount reflected in the OW Germany invoice referred to above, plus an uplift for interest and/or costs, as may be awarded, of 6%.

5. It is an express condition of this undertaking involving the **M/V SOFIA EXPRESS** competing claims that the Court shall issue an order directing all defendants to refrain from arresting, restraining or otherwise attaching the aforesaid vessel or any other property of its owner, HLAG or any entity in the same management, in respect of the supply of bunkers.

**Pledge Regarding the Supply of Bunkers to the M/V SANTA ROBERTA**

6. With respect to the competing claims involving entitlement to payment for the bunkers supplied to the **M/V SANTA ROBERTA**, on which OW Germany had issued an invoice to HLAG in the total amount \$1,495,860.94 in relation to the supply of bunkers on or about October 9, 2014, Surety pledges that in the event a final judgment (after all appeals, if any) shall be entered in favor of Defendant US Oil determining it to have a valid maritime lien on the said vessel entitling it to payment of its invoice against all others and determining that the payment by HLAG (already remitted to OW Germany) did not extinguish or otherwise eliminate that lien right, or, in the alternative, should interpleader relief be granted in respect to the competing claims involving the supply of bunkers to the **M/V SANTA ROBERTA** and a final judgment (after all appeals, if any) be entered in favor of one of the defendants herein and against all others adjudging the said defendant to be the entity entitled to receive the payment and releasing HLAG from any further liability in respect to the supply of the bunkers, and should HLAG fail to remit said sum within thirty (30) days of entry of said final judgment as outlined above, then Surety shall pay to the Clerk of Court all or any portion of the aforesaid judgment that remains unsatisfied, up to and including but under no circumstances exceeding the total sum of \$1,570,771.89 (One Million Five Hundred Seventy Thousand Seven Hundred and seventy One US Dollars and Eighty Nine Cents), said sum representing the amount reflected in the US Oil invoice issued in respect to the bunker supply described in this paragraph 8, plus an uplift for interest and/or costs, as may be awarded, of 6%.

7. It is an express condition of this undertaking involving the **M/V SANTA ROBERTA** competing claims that the Court shall issue an order directing US Oil to refrain from arresting, restraining or otherwise attaching the aforesaid vessel or any property of its owner, HLAG or any entity in the same management in respect of the supply of bunkers.

**General Term**

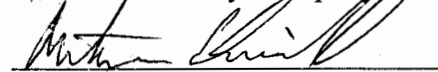
8. It is an express condition of all undertakings herein that if HLAG remits payment for any bunkers supplied in respect to the vessels described above, which payment(s) satisfies in full HLAG's obligations to all defendants and entities as determined by the Court, after all appeals (if any), Surety shall be relieved from all obligations under this bond with respect to any such payment.

9. The aggregate liability of the Surety under this Bond is limited to the penal sums relating to each of the respective vessels as set forth above: to wit:

- (i) \$1,607,818.41 (One Million Six Hundred and Seven Thousand Eight Hundred and Eighteen US Dollars and Forty One Cents) in respect to the claims involving the **M/V SEASPAN HAMBURG**;
- (ii) \$1,397,788.33 (One Million Three Hundred and Ninety Seven Thousand Seven Hundred and Eighty Eight US Dollars and Thirty Three Cents) in respect to the claims involving the **M/V SOFIA EXPRESS**; and,
- (iii) \$1,570,771.89 (One Million Five Hundred Seventy Thousand Seven Hundred and seventy One US Dollars and Eighty Nine Cents) in respect to the claims involving the **M/V SANTA ROBERTA**.

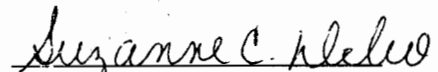
In witness whereof, the surety, intending to be bound to the defendants by the terms and conditions herein, hereby causes this undertaking to be executed by its duly authorized agent.

National Casualty Company



Name: Matthew Schmiedel

Title: Attorney-in-fact



Notary in and for the State of New York

SUZANNE C. DELIO  
Notary Public, State of New York  
No. 02DE6126649  
Qualified in New York County  
Commission Expires ~~May 9, 2017~~  
September 16, 2017

# National Casualty Company

Home Office: Scottsdale, Arizona  
 Surety Administrative Office:  
 7 World Trade Center, 37<sup>th</sup> Floor  
 250 Greenwich Street  
 New York, NY 10007-0033

## Power of Attorney

KNOW ALL MEN BY THESE PRESENTS THAT:

National Casualty Company, a Wisconsin corporation hereinafter referred to as the "Company" and does hereby make, constitute and appoint: **Antonio C. Albanese, William F. Pagano, Maria L. Duhart, Louis J. Bensinger, Matthew Schmiedel**

each in their individual capacity, its true and lawful attorney-in-fact, with full power and authority to sign, seal, and execute on its behalf any and all bonds and undertakings, and other obligatory instruments of similar nature, in penalties not exceeding the sum of

### Unlimited

and to bind the Company thereby, as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Company; and all acts of said Attorney pursuant to the authority given are hereby ratified and confirmed.

This power of attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the board of directors of the Company:


"RESOLVED, that the President, or any Vice President be, and each hereby is, authorized and empowered to appoint Attorneys-in-Fact of the Company, and to authorize them to execute and deliver on behalf of the Company any and all bonds, forms, applications, memorandums, undertakings, recognizances, transfers, contracts of indemnity, policies, contracts guaranteeing the fidelity of persons holding positions of public or private trust, and other writings obligatory in nature which the business of the Company may require; and to modify or revoke, with or without cause, any such appointment or authority; provided, however, that the authority granted hereby shall in no way limit the authority of other duly authorized agents to sign and countersign any of said documents on behalf of the Company."

"RESOLVED FURTHER, that such Attorneys-in-Fact shall have full power and authority to execute and deliver any and all such documents and to bind the Company subject to the terms and limitations of the power of attorney issued to them, and to affix the seal of the Company thereto; provided, however, that said seal shall not be necessary for the validity of any such documents."

This power of attorney is signed and sealed under and by the following bylaws duly adopted by the board of directors of the Company.

Execution of Instruments. In addition to the Chief Executive Officer, President, Treasurer and Secretary, any vice president, assistant secretary or assistant treasurer shall have the power and authority to sign all approved documents, instruments, contracts or other papers in connection with the operation of the business of the Company; provided, however, the signature of any of them may be printed, engraved or stamped on any approved document, contract, instrument or other papers of the Company.

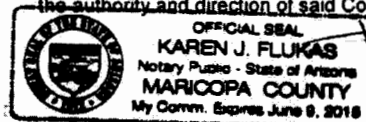
IN WITNESS WHEREOF, the Company has caused this instrument to be sealed and duly attested by the signature of its officer the 18<sup>th</sup> day of March, 2014.

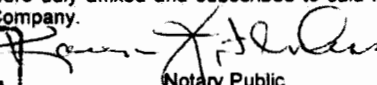
  
 Michael D. Miller, President of National Casualty Company

### ACKNOWLEDGMENT

STATE OF ARIZONA, COUNTY OF MARICOPA: ss

On this 18<sup>th</sup> day of March, 2014 before me came the above-named officer for the Company aforesaid, to me personally known to be the officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposes and says, that he is the officer of the Company aforesaid, that the seal affixed hereto is the corporate seal of said Company, and the said corporate seal and his signature were duly affixed and subscribed to said instrument by the authority and direction of said Company.



  
 Notary Public  
 My Commission Expires

### CERTIFICATE

I, Parag H. Shah, Assistant Secretary of the Company, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney issued by the Company; that the resolution included therein is a true and correct transcript from the minutes of the meetings of the boards of directors and the same has not been revoked or amended in any manner; that said Michael D. Miller was on the date of the execution of the foregoing power of attorney the duly elected officer of the Company, and the corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority of said board of directors; and the foregoing power of attorney is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto subscribed my name as Assistant Secretary, and affixed the corporate seal of said Company this 18<sup>th</sup> day of December, 2014.

  
 Assistant Secretary

**NATIONWIDE MUTUAL INSURANCE COMPANY  
AND SUBSIDIARIES AND AFFILIATES**

Consolidated and Combined Statutory Statements of Admitted Assets, Liabilities and Surplus

(in millions)	December 31,	
	2013	2012
<b>Admitted Assets</b>		
<b>Invested Assets</b>		
Bonds	\$ 18,245	\$ 16,895
Stocks	5,494	5,476
Mortgage loans, net of allowance	536	567
Owner occupied real estate, at cost (less accumulated depreciation of \$348 in 2013 and \$314 in 2012)	651	638
Cash, cash equivalents and short-term investments	396	629
Investments in corporate-owned life insurance	1,215	1,153
Other invested assets	4,022	4,073
<b>Total invested assets</b>	<b>\$ 30,559</b>	<b>\$ 29,431</b>
Premiums in course of collection	3,635	3,380
Accrued investment income	214	213
Deferred federal income tax asset	1,466	1,609
Other assets	804	839
<b>Total admitted assets</b>	<b>\$ 36,678</b>	<b>\$ 35,472</b>
<b>Liabilities and Surplus</b>		
<b>Liabilities</b>		
Losses and loss expense reserves	\$ 11,661	\$ 11,608
Unearned premiums	6,875	6,466
Accrued expenses and taxes, other than federal income taxes	606	579
Agents' security compensation plan reserve	1,121	1,145
Other liabilities	2,012	1,853
<b>Total liabilities</b>	<b>\$ 22,275</b>	<b>\$ 21,651</b>
<b>Surplus</b>		
Surplus notes, net of unamortized issue discount and deferred gains on hedging of \$36 in 2013 and \$58 in 2012	\$ 2,164	\$ 2,142
Unassigned surplus	12,239	11,679
<b>Total surplus</b>	<b>\$ 14,403</b>	<b>\$ 13,821</b>
<b>Total liabilities and surplus</b>	<b>\$ 36,678</b>	<b>\$ 35,472</b>

The foregoing balance sheet includes Nationwide Mutual Insurance Company and 33 property casualty subsidiaries and/or affiliates, including National Casualty Company. This schedule was presented in the audited statutory financial statements for the periods presented.

**Certification**

I, Teresa J. Potts, VP, P&C Controller, do hereby certify that the foregoing is a true and correct statement of the statutory balance sheet of said Corporation as of December 31, 2013 and 2012 to the best of my knowledge and belief.

Teresa J. Potts  
Teresa J. Potts



Jeffrey W. Cloud  
Notary Public, State of Ohio  
My Commission Expires 09-29-2016

Jeffrey W. Cloud  
4/11/14

WILLIAM L. JUSKA, JR.  
JAMES L. ROSS\*  
ERIC E. LENCK  
JOHN J. WALSH\*  
PATRICK J. BONNER\*  
PETER J. GUTOWSKI  
MARK F. MULLER  
WAYNE D. MEEHAN\*  
DON P. MURNANE, JR. Δ  
THOMAS M. RUSSO  
THOMAS M. CANEVARI†  
MICHAEL FERNANDEZ\*  
JOHN F. KARPOUSIS\* Δ  
MICHAEL E. UNGER\*†  
WILLIAM J. PALLAS\*  
GINA M. VENEZIA\* Δ  
JUSTIN T. NASTRO\*  
MANUEL A. MOLINA  
DANIEL J. FITZGERALD\*† Δ  
BARBARA G. CARNEVALE\*  
JAN P. GISHOLT†  
SUSAN LEE\*  
ERIC J. MATHESON\*  
MICHAEL D. TUCKER\*

\* ALSO ADMITTED IN NEW JERSEY  
† ALSO ADMITTED IN CONNECTICUT  
Δ ALSO ADMITTED IN WASHINGTON, D.C.  
\* ALSO ADMITTED IN LOUISIANA

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OF COUNSEL  
GEORGE B. FREEHILL

December 18, 2014

Our Ref: 482-14/MF/PJG

The Honorable Valerie E. Caproni  
United States District Judge  
Thurgood Marshall Courthouse  
40 Foley Square, Room 240  
New York, NY 10007

*Deposit  
w/  
check;  
very  
important  
document*

Re: **Hapag-Lloyd v. U.S. Oil Trading, OW Bunker Germany, et al**  
14-cv-9949 (VEC)

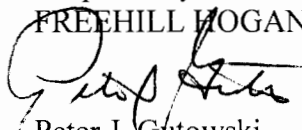
Dear Judge Caproni,

Further to our email letter late this afternoon, we enclose the original Bond executed by the Surety. As per our letter, the Bond language relating to the Vienna Express was deleted.

Trusting that the foregoing comports with the directions received from Your Honor earlier today, we would be most grateful if the Court would endorse the Order at your earliest opportunity so that we can provide copies to the claimants.

We thank the Court for its attention to the foregoing.

Respectfully submitted,  
FREEHILL HOGAN & MAHAR LLP

  
Peter J. Gutowski  
Michael Fernandez